

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



**FILED**

03-07-07

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In the Matter of the Application of SAN GABRIEL VALLEY WATER COMPANY (U337W) for Authority to Increase Rates Charged for Water Service in its Fontana Water Company Division by \$5,662,900 or 13.1% in July 2006; \$3,072,500 or 6.3% in July 2007; and \$2,196,000 or 4.2% in July 2008.

Application 05-08-021  
(Filed August 5, 2005)

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service, and Facilities of San Gabriel Valley Water Company (Utilities 337 W).

Investigation 06-03-001  
(Filed March 2, 2006)

**CITY OF FONTANA'S REPLY TO COMMENTS ON ADMINISTRATIVE LAW  
JUDGE BARNETT'S PROPOSED DECISION**

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**March 7, 2007**

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, the City of Fontana respectfully submits its reply to the comments on Administrative Law Judge Barnett's proposed decision. The City of Fontana will focus on two topics discussed in San Gabriel Valley Water Company's comments: dividends and application of the rate base cap to Sandhill.<sup>1</sup> The City also joins in the Division of Ratepayer Advocates' reply comments.

### **Dividends**

San Gabriel claims that the Water Division's Audit Report contains a "muddled" analysis that incorrectly presumes a nexus between the receipt of gains and San Gabriel's payment of dividends, and that the proposed decision erroneously adopts this approach.

However, San Gabriel ignores the fact that the testimony of its own expert, Thomas Snow, demonstrates a clear nexus between the proceeds and the amount of dividends paid. Mr. Snow, who audited San Gabriel's financial statements when he was with KPMG, testified orally and in writing that San Gabriel had a policy of paying 6% of average shareholder equity. See, e.g., RT v. 6, 541/17-542/4. San Gabriel/Snow. Mr. Snow acknowledged that shareholder equity included the contamination and condemnation funds. Under cross-examination, he further testified:

"Q. And isn't it true that the dividends that are being paid out per year using this 6 percent are higher because of the condemnation and contamination funds?

A. Yes." RT v. 6, 544/27-545/2. San Gabriel/Snow.

The City's utility economist, Mr. Cuthbert, calculated that this 6% target on equity to pay dividends meant that an extra \$17,200,000 in dividends was paid on account of the contamination and condemnation funds being in shareholder equity. See Ex. 72, 37/4-15.

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<sup>1</sup> The City also incorporates by reference its accompanying reply comments on Commissioner Bohn's alternate proposed decision. Those comments are equally applicable here.

Also worth noting is that San Gabriel paid \$8.7 million in dividends in 1999, including a special dividend slightly under \$5 million. These 1999 dividend payments represented 108% of San Gabriel's net income for 1999. 1998 through 1999 San Gabriel received approximately \$6,000,000 in proceeds from the San Bernardino County contamination settlement. RT v. 6, 545/3-546/1. San Gabriel/Snow. Mr. Snow, who had been the auditor of San Gabriel at the time, testified he did not know what the purpose of the special dividend payment was other than for "a corporate purpose of the company's parent." Id. at 546/3-6. Mr. Snow, it turned out, was in error—the dividend was not even for that purpose. San Gabriel revealed on the last day of the evidentiary hearings (after refusing to answer discovery inquiries on the topic throughout the current and prior proceedings) the special dividend was paid to fund a loan to an individual shareholder in the parent company to help the shareholder pay estate taxes. Ex. 80. A proper reading of the record is that the San Bernardino County settlement monies were used to fund payment of this once and only special dividend payment.

### **Sandhill**

San Gabriel contends that it is error to have Sandhill be covered by the rate base cap. It would be error to do otherwise for the reasons given in the City's comments on the alternate proposed decision. Sandhill should also be put in proper context. In its application in the prior rate case in 2002, San Gabriel discussed the Lytle Creek water supply, the principal source of supply for Sandhill:

"Q. Does San Gabriel have other risks related to source of water used to supply Fontana?

A. Yes. Fontana Water Company relies on relatively low cost water from Lytle Creek. But availability of water from Lytle Creek is very erratic and linked to weather fluctuations. Rainfall in the Lytle Creek watershed during the most recent year is the lowest in recorded history. The lack of surface water is causing Fontana Water Company to obtain water supplies from more costly sources such as Chino Basin wells . . ." SG-4, p. 17, A. 02-11-044.<sup>2</sup>

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<sup>2</sup> The record of the prior rate case was consolidated with the current rate case for all purposes.

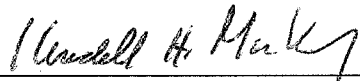
It simply is imprudent to carve out a \$35,000,000 exception from the rate base cap for a project that is dependent upon a source of supply that San Gabriel previously identified as high risk.

San Gabriel claims that the proposed decision expressly approves Sandhill and having it subject to the cap is contradictory. To the contrary, the proposed findings of fact do not expressly approve the Sandhill project as San Gabriel claims. Moreover, there could be no contradiction as claimed by San Gabriel. Exempting Sandhill from the cap would in itself be contradictory, undermining the very rationale of a cap. Having a \$35,000,000 exemption from a rate base cap when the last recorded rate base in 2004 was \$71,000,000 would mean the exception would swallow up the rule.

Respectfully submitted,

Date: March 7, 2007

By:

  
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## CERTIFICATE OF SERVICE

I, **Frances A. White**, hereby certify that I have this day served a certified copy of the foregoing document: **CITY OF FONTANA'S REPLY TO COMMENTS ON ADMINISTRATIVE LAW JUDGE BARNETT'S PROPOSED DECISION**

on all known parties to the service list **Application 05-08-021 and Investigation 06-03-001**; I caused the documents to be sent to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

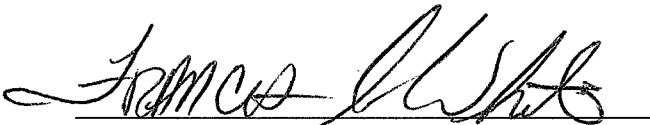
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